



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/924,952	08/09/2001	Charlton Clinton Tooke III	13355	2009

25570 7590 07/30/2007
ROBERTS, MLOTKOWSKI & HOBBS
P. O. BOX 10064
MCLEAN, VA 22102-8064

EXAMINER

PASS, NATALIE

ART UNIT	PAPER NUMBER
----------	--------------

3626

MAIL DATE	DELIVERY MODE
-----------	---------------

07/30/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/924,952	Applicant(s) TOOKE, CHARLTON CLINTON	
	Examiner Natalie A. Pass	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,6,8-11,13-19,21-33 and 35-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,6,8-11,13-19,21-33 and 35-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed 27 April 2007. Claims 1, 13-14, 17-19, 21-26 have been amended. Claims 4, 7, 12, 20, and 34 have been cancelled. Claims 44-53 have been newly added. Claims 1-3, 5-6, 8-11, 13-19, 21-33, 35-53 remain pending.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Newly amended claim 1, newly added claims 45-53, and claims 2-6, 8-11, 43 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

(A) Independent claims 1 and 45 and claims 52-53 recite limitations that are new matter, and are therefore rejected. The added material which is not supported by the original disclosure is as follows:

- "a payment manager" as disclosed in claim 1 at line 4;
- "a health care manager," as disclosed in claim 45 at line 5;
- "a cost manager," as disclosed in claim 45 at line 10;

Art Unit: 3626

- “health care issues,” as disclosed in claim 52 at line 2;
- “a security administrator,” as disclosed in claim 53 at line 1.

35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. "New matter" constitutes any material which meets the following criteria:

a) It is added to the disclosure (either the specification, the claims, or the drawings) after the filing date of the application, and

b) It contains new information which is neither included nor implied in the original version of the disclosure. This includes the addition of physical properties, new uses, etc.

In particular, the Examiner was unable able to find any support for this newly added language within the specification as originally filed on 9 August 2001. Applicant is respectfully requested to clarify the above issues and to specifically point out support for the newly added limitations in the originally filed specification and claims.

(B) Claims 2-6, 8-11, 43, 46-51 incorporate the features of independent claims 1 and 45, through dependency, and are also rejected.

Applicant is required to cancel the new matter in the reply to this Office Action.

4. If Applicant continues to prosecute the application, revision of the specification and claims to present the application in proper form is required. While an application can, be amended to make it clearly understandable, no subject matter can be added that was not disclosed in the application as originally filed on 9 August 2001.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

NOTE: The following rejections assume that the subject matter added in 27 April 2007 amendment are NOT new matter, and are provided hereinbelow for Applicant's consideration, on the condition that Applicant properly traverses the new matter objections and rejections made in sections 2-4 above in the next communication sent in response to the present Office Action.

6. Claims 1, 5-6, 8-11, 13, 18, 21-25, and 43-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deavers, U.S. Patent Number 6, 044, 352 and Kenna, et al., U.S. Patent Number 6,108,641, for substantially the same reasons given in the previous Office Action (paper number 20070120), and further in view of Henley, U.S. Patent Application Publication Number 2002/0065758. Further reasons appear hereinbelow.

(A) Claim 1 has been amended to recite the limitations

- "providing a communications interface with a network to enable communication between a health care consumer, a health care provider, and a payment manager," in lines 3-4;

Art Unit: 3626

- "maintaining data on one or more health care consumers and health care products and services, wherein maintaining the data includes allowing the health care consumers to open," in lines 5-6;
- "coordinating allocation of resources for health care products and services provided to a health care consumer," in lines 9-10; and
- "offering one or more services databases to the health care consumer, including providing a search function to search and generate results from the services databases," in lines 33-34.

As per amended claim 1, Deavers and Kenna teach a method of managing health care resources for a health care consumer as analyzed and discussed in the previous Office Action (paper number 20070120), the method comprising:

providing a communications interface with a network to enable communication between a health care consumer, a health care provider, and a payment manager (Kenna; Figure 6, column 9, lines 32-61);

maintaining data on one or more health care consumers and health care products and services, wherein maintaining the data includes allowing the health care consumers to open a health savings account (Deavers; column 2, lines 51-56, column 3, lines 48-56, column 16, lines 17-21), (Kenna; Figure 1, column 2, lines 29-35, column 5, lines 22-55, column 8, lines 44-65);

coordinating allocation of resources for health care products and services provided to a health care consumer (Deavers; column 3, lines 34-42, column 4, lines 39-42, column 6, lines 1-4, column 7, lines 65 to column 8, line 11), (Kenna; Figure 2, column 5, lines 33-39); and

Art Unit: 3626

offering one or more services databases to the health care consumer (Deavers; column 3, lines 34-42, column 5, lines 50-57, column 8, lines 6-12).

Deavers and Kenna fail to explicitly disclose

providing a search function to search and generate results from the services databases.

However, the above features are well-known in the art, as evidenced by Henley.

In particular, Henley teaches

providing a search function to search and generate results from the services databases

(Henley; Abstract, paragraphs [0019], [0084]-[0085], [0094]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the account of Deavers and Kenna to include the above limitations, as taught by Henley, with the motivations of improving the quality of medical services provided to patients and other buyers of medical services (Henley; paragraph [0037]).

The remainder of claim 1 is rejected for the same reasons given in the prior Office Action (paper 20070120, section 4, pages 2-6), and incorporated herein.

The motivations for combining the respective teachings of Deavers and Kenna are as given in the rejection of claim 1 in the prior Office Action (paper 20070120), and incorporated herein.

(B) As per newly added claim 44, Deavers, Kenna and Henley teach a method as analyzed and discussed in claim 1 above

further comprising verifying identification and transaction information transmitted and received through the communications interface (Henley; paragraph [0019]).

The motivations for combining the respective teachings of Deavers, Kenna and Henley are as given in the rejection of claim 1 in the prior Office Action (paper 20070120), and incorporated herein , and in the rejection of claim 1 above, and also incorporated herein.

(C) Amended claim 13 differs from amended method claim 1 in that it recites an online health account for providing a primary point of access to a healthcare system, rather than a method for managing health care resources for a health care consumer, in the preamble.

Amended apparatus claim 13 repeats the subject matter of claim 1 as a set of elements rather than a series of steps. As the underlying processes of claim 1 have been shown to be fully disclosed by the teachings of Deavers, Kenna and Henley in the above rejection of claim 1, it is readily apparent that the system disclosed by Deavers, Kenna and Henley includes the apparatus to perform these functions. As such, these limitations are rejected for the same reasons given above for method claim 1, and incorporated herein.

(D) As per the amendments to claims 18, 21-25, these appear to have been made merely to correct minor typographical or grammatical errors in the claim language or to change dependencies. While these changes render the language of the claim smoother and more consistent, they otherwise affect neither the scope and breadth of the claim as originally presented nor the manner in which the claim was interpreted by the Examiner when applying prior art within the previous Office Action.

As such, the recited claimed features are rejected for the same reasons given in the prior Office Action (paper number 20070120, section 4, pages 7-8, and section 7, pages 14-15), and incorporated herein.

(E) Claims 5-6, 8-11, 43 have not been amended and are rejected for the same reasons given in the previous Office Action (paper number 20070120, section 4, pages 6-8), and incorporated herein.

7. Claim 26-27, 29, 31-33, 35-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barber et al., U.S. Patent Number 4,858,121, Deavers, U.S. Patent Number 6, 044, 352 and Kenna, et al., U.S. Patent Number 6,108,641 for substantially the same reasons given in the previous Office Action (paper number 20070120). Further reasons appear hereinbelow.

(A) As per amended claim 26, Barber, Deavers and Kenna teach a system as analyzed and discussed in the previous Office Action (paper number 20070120), the system comprising the second host in communication with the first host (Barber; Abstract, column 3, lines 27-66, column 8, line 41 to column 9, line 2), an allocation device in communication with the online health account (Deavers; column 3, lines 34-42), and a limiting device in communication with the online health account (Kenna; column 4, lines 1-9, column 14, lines 20-52).

The remainder of claim 26 is rejected for the same reasons given in the prior Office Action (paper 20070120, section 5, pages 8-10), and incorporated herein.

The motivations for combining the respective teachings of Barber, Deavers and Kenna are as given in the rejection of claim 26 in the prior Office Action (paper number 20070120), and incorporated herein.

Art Unit: 3626

(B) Claims 27, 29, 31-33, 35-42 have not been amended and are rejected for the same reasons given in the previous Office Action (paper number 20070120, section 5, pages 10-11), and incorporated herein.

8. Claims 2-3, 14-17, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deavers, U.S. Patent Number 6, 044, 352, Kenna, et al., U.S. Patent Number 6,108,641, and Henley, U.S. Patent Application Publication Number 2002/0065758, as applied to claims 1 and 13 above, and further in view of Barber et al., U.S. Patent Number 4,858,121 for substantially the same reasons given in the previous Office Action (paper number 20070120). Further reasons appear hereinbelow.

(A) As per the amendments to claims 14, 17, 19, these appear to have been made merely to correct minor typographical or grammatical errors in the claim language or to change dependencies. While these changes render the language of the claim smoother and more consistent, they otherwise affect neither the scope and breadth of the claim as originally presented nor the manner in which the claim was interpreted by the Examiner when applying prior art within the previous Office Action.

As such, the recited claimed features are rejected for the same reasons given in the prior Office Action (paper number 20070120, section 6, pages 12-14), and incorporated herein.

(B) Claims 2-3, 15-16 have not been amended and are rejected for the same reasons given in the previous Office Action (paper number 20070120, section 6, pages 12-14), and incorporated herein.

Art Unit: 3626

9. Claims 28, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barber et al., U.S. Patent Number 4,858,121, Deavers, U.S. Patent Number 6, 044, 352 and Kenna, et al., U.S. Patent Number 6,108,641 as applied to claim 26 above, and further in view of Henley, U.S. Patent Application Publication Number 2002/0065758 for substantially the same reasons given in the previous Office Action (paper number 20070120). Further reasons appear hereinbelow.

(A) Claims 28, 30 have not been amended and are rejected for the same reasons given in the previous Office Action (paper number 20070120, section 8, pages 15-16), and incorporated herein.

10. Claims 45-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henley, U.S. Patent Application Publication Number 2002/0065758 in view of Kenna, et al., U.S. Patent Number 6,108,641.

(A) As per newly added claim 45, Henley teaches an online health care management system that provides a primary point of access for a health care consumer, comprising

an interface that establishes a communication link to a network to connect a health care consumer and a health care provider (Henley; Abstract, paragraph [0019]);

“a person desiring a specific medical service” (reads on “a health care manager”) (Henley; paragraphs [0038], [0104]-[0105]) linked to the interface including at least one services database accessible to the health care consumer relating to health care providers (Henley; Abstract, paragraphs [0038], [0104]), including a search tool and result generator for searching the services database using parameters selected by the health care consumer and generating

Art Unit: 3626

results based on the search to assist the health care consumer in selecting health care providers (Henley; Abstract, paragraphs [0019], [0084]-[0085], [0094], [0104]); and,

“a facility revenue forecast database” (reads on “a cost manager”) linked to the interface to process transaction parameters related to health care providers (Henley; paragraph [0067], [0115], [0140]), including an expenditure coordinator (Henley; paragraph [0067], [0115], [0140]) to determine health care expenditures based on transaction parameters transmitted by the interface.

Although Henley teaches a resource allocator (Henley; paragraphs [0115], [0140]), Henley fails to explicitly disclose a resource allocator to allocate funds for payment of health care expenditures.

However, the above features are well-known in the art, as evidenced by Kenna.

In particular, Kenna teaches

a resource allocator to allocate funds for payment of health care expenditures (Kenna; column 4, lines 15-21).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Henley to include the above limitations, as taught by Kenna, with the motivations of “enabl[ing] individuals to easily and cost effectively manage their assets and have a concise, clear understanding of the value of their assets” (Kenna; column 3, lines 31-34).

(B) As per newly added claim 46-53, Henley and Kenna teach a system as analyzed and discussed in claim 45 above

Art Unit: 3626

wherein the resource allocator includes a medical savings account and a medical savings account controller (Kenna; column 2, lines 29-35, column 4, lines 15-21, column 5, lines 22-55, column 8, lines 44-65);

wherein the medical savings account includes a taxable portion and a non-taxable portion, and medical savings account controller allocates funds, obtains payments and directs transfers between the taxable portion and the non-taxable portion based on instructions from the health care consumer (Kenna; column 8, line 54 to column 9, line 15);

wherein the cost manager includes access to a medical insurance provider (Henley; paragraphs [0024], [0067], [0087], [0115], [0120], [0140]);

wherein the expenditure coordinator includes a database relating to health care plans, health care providers, and health care program adjustment factors (Henley; Abstract, paragraphs [0037], [0040], [0067], [0115], [0140]);

wherein the cost manager requests, gathers and receives transaction parameters from the health care consumer, the health care provider, and the expenditure coordinator (Henley; paragraph [0067], [0115], [0140]) and the resource allocator generates payment instructions based on the transaction parameters (Kenna; column 4, lines 15-21);

wherein the services database includes data relating to health care providers based on location, cost, affiliation and specialty (Henley; Abstract, Figures 1, 4, 8, 9, 10, paragraphs [0019], [0081], [0105]);

wherein the services database includes “a consumer feedback database” (reads on “data relating to health care issues” (Henley; Abstract, paragraphs [0037], [0121])); and

further comprising a security administrator linked to the interface to verify identification and transaction information related to the health care consumer and the health care provider (Henley; Abstract, paragraphs paragraph [0019], [0038]-[0039], [0104]).

The motivations for combining the respective teachings of Henley and Kenna are as given in the rejection of claim 45 above, and incorporated herein.

Response to Arguments

11. Applicant's arguments filed 27 April 2007 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 27 April 2007.

(A) At page 14, paragraph 3 of the 27 April 2007 response, Applicant apparently argues that there is no suggestion to combine the references and that a *prima facie* case of obviousness has not been established. In response to Applicant's argument, the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Furthermore, the Examiner recognizes that references cannot be arbitrarily altered or modified and that there must be some reason why one skilled in the art would be motivated to make the proposed modifications. And although the motivation or suggestion to make modifications must be articulated, it is respectfully submitted that there is no requirement that the

Art Unit: 3626

motivation to make modifications must be expressly articulated within the references themselves. References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures, *In re Bozek*, 163 USPQ 545 (CCPA 1969).

The Examiner is concerned that the Applicant apparently ignores the mandate of the numerous court decisions supporting the position given above. The issue of obviousness is not determined by what the references expressly state but by what they would reasonably suggest to one of ordinary skill in the art, as supported by decisions in *In re Delisle* 406 Fed 1326, 160 USPQ 806; *In re Kell, Terry and Davies* 208 USPQ 871; and *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ 2d 1596, 1598 (Fed. Cir. 1988) (citing *In re Lalu*, 747 F.2d 703, 705, 223 USPQ 1257, 1258 (Fed. Cir. 1988)). Further, it was determined in *In re Lamberti et al* 192 USPQ 278 (CCPA) that:

- (i) obvious does not require absolute predictability;
- (ii) non-preferred embodiments of prior art must also be considered; and
- (iii) the question is not express teaching of references but what they would suggest.

According to *In re Jacoby*, 135 USPQ 317 (CCPA 1962), the skilled artisan is presumed to know something more about the art than only what is disclosed in the applied references. In *In re Bode*, 193 USPQ 12 (CCPA 1977), every reference relies to some extent on knowledge of persons skilled in the art to complement that which is disclosed therein. In *In re Conrad* 169 USPQ 170 (CCPA), obviousness is not based on express suggestion, but what references taken collectively would suggest.

In the instant case, the Examiner respectfully notes that each and every motivation to combine the applied references is accompanied by select portions of the respective reference(s)

Art Unit: 3626

which specifically support that particular motivation. As such, it is NOT seen that the Examiner's combination of references is unsupported by the applied prior art of record. Rather, it is respectfully submitted that explanation based on the logic and scientific reasoning of one ordinarily skilled in the art at the time of the invention that support a holding of obviousness has been adequately provided by the motivations and reasons indicated by the Examiner, *Ex parte Levengood* 28 USPQ 2d 1300 (Bd. Pat. App. & Inter., 4/22/93).

Moreover, Applicant apparently ignores the evidence given by the Examiner, namely, recitations of specific portions of the applied reference, express articulation of the combinations and the motivations for combinations, as well as the scientific and logical reasoning of one skilled in the art at the time of the invention, as given in the prior Office Action (paper number 20070120) and in the present communication. It is noted that in the previous Office Action, each and every claimed limitation was carefully analyzed and addressed in a detailed manner encompassing five different sections over fifteen pages of text (see paper number 20070120, sections 4-8, pages 2-16).

As such, it is respectfully submitted that Applicant appears to view the applied references separately, without considering the knowledge of average skill in the art, and further fails to appreciate the breadth of the claim language that is presently recited.

In response to the argument that a *prima facie* case of obviousness has not been established, the Examiner respectfully submits that obviousness is determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. See *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); *In re Hedges*, 783 F.2d 1038, 1039, 228 USPQ 685,686 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785,788

Art Unit: 3626

(Fed. Cir. 1984); and *In re Rinehart*, 531 F.2d 1048, 1052, 189 USPQ 143,147 (CCPA 1976).

Using this standard, the Examiner respectfully submits that the burden of presenting a *prima facie* case of obviousness has at least been satisfied, since evidence of corresponding claim elements in the prior art has been presented and since Examiner has expressly articulated the combinations and the motivations for combinations that fairly suggest Applicant's claimed invention (see paper number 20070120). Note, for example, the motivations explicitly stated at paragraph 1 of page 6 of the previous Office Action (i.e., " ... with the motivations of implementing the MSA (medical savings account) concept ..."), and at paragraph 1, page 13 of the prior Office Action (i.e., " ... with the motivations of reducing delays between the time medical services were provided and when compensation was received ... ") and at page 6, lines 11-12 in this Office Action, above, (i.e., " ... with the motivations of improving the quality of medical services ... ").

At page 15, paragraph 1 of the 27 April 2007 response, Applicant notes that "claim 43 was not listed" in Section 4, on page 2 of the previous Office Action (paper number 20070120), and requests clarification of the status of claim 43. Examiner thanks Applicant for noting the typographical error, however Examiner notes that claim 43 was rejected on page 8, section (E) of the previous Office Action.

At page 17, paragraph 1 of the 27 April 2007 response, Applicant apparently argues that there is no suggestion to combine the references and that a *prima facie* case of obviousness has not been established. Examiner's responses to these arguments have been presented earlier in this action.

At pages 17-18 of the 27 April 2007 response, Applicant argues that features of amended claim 26 are not taught by the applied references. Examiner respectfully disagrees. Examiner interprets Barber's teachings of "the medical payment system includes a plurality of remote terminals A that are interconnected with a central processing system B. Each remote terminal is disposed in a physician's office or other medical facility and is interconnected with the central processing system by existing telephone lines or other data links. The central processing system is interconnected with other electronic and computerized equipment C, commonly at remote locations. In particular, the central processing system may be interconnected directly with insurance companies, banks and financial institutions, electronic mail facilities, and the like to communicate information electronically therebetween" (Barber; column 3, lines 27-40) to teach a form of "the second host in communication with the first host" and Examiner interprets Deaver's teachings of "[a]n input clerk sets up the new account ... [...] ... This function may be automated in part or entirely ... [...] ... The application data may be reviewed for acceptability by machine criteria, e.g. verification of payment ... [...] ... The information is stored in appropriate memory banks... [...] ... for future use in monitoring the medical savings fund account activity." (Deavers; column 3, lines 34-42) to teach a form of "an allocation device in communication with the online health account, and Kenna's teachings of "invention utilizes as a system thereof, for at least one subaccount, a combination comprising a subscriber account entry means for selectively receiving subscriber parameters and creating an associated account database entry where each MSA subaccount in the database includes information regarding the subscriber, parameters defining allowable contributions to and withdrawals from the MSA subaccount, contributions to the MSA subaccount, and associated

Art Unit: 3626

medical expenditures paid from the MSA subaccount; a subscriber MSA subaccount processing means for performing periodic account maintenance transactions based upon the subscriber parameters and updating the MSA subaccount database in accordance therewith; the subscriber MSA subaccount processing means further comprising means for receiving medical claim-related data inputs including medical expenses to be paid from the subscriber's MSA subaccount; and means responsive to the received claim inputs for allocating and making payment from the subscriber's MSA subaccount in accordance with the subscriber parameters and for updating the MSA subaccount database in accordance therewith" (Kenna; column 4, lines 1-9, column 14, lines 20-52) to teach a form of "a limiting device in communication with the online health account."

(B) The remainder of Applicant's arguments on pages 13-19 of the response filed 27 April 2007 with respect to claims 1-3, 5-6, 8-11, 13-19, 21-33, 35-53 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 3626

13. Any response to this final action should be mailed to:

Box AF

Commissioner of Patents and Trademarks

Washington D.C. 20231

or faxed to: (571) 273-8300.

For formal communications, please mark
"EXPEDITED PROCEDURE".

For informal or draft communications, please
label "PROPOSED" or "DRAFT" on the front page of
the communication and do NOT sign the
communication.

After Final communications should be labeled "Box AF."

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie A. Pass whose telephone number is (571) 272-6774. The examiner can normally be reached on Monday through Thursday from 9:00 AM to 6:30 PM. The examiner can also be reached on alternate Fridays.

Art Unit: 3626

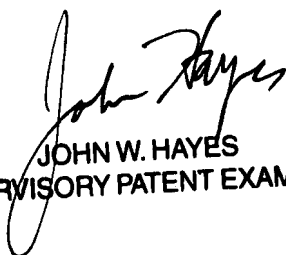
15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached at (571) 272-6776. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (571) 272-3600. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Natalie A. Pass

July 17, 2007



JOHN W. HAYES
SUPERVISORY PATENT EXAMINER